1	Rene L. Valladares		
	Federal Public Defender		
2	Nevada Bar No. 11479		
	Randolph M. Fiedler		
3	Assistant Federal Public Defender		
	Nevada Bar No. 12577		
4	Randolph_Fiedler@fd.org		
	Heather Fraley		
5	Assistant Federal Public Defender		
	Texas Bar No. 24050621		
$6 \mid \mid$	Heather_Fraley@fd.org		
	Brad D. Levenson		
7	Assistant Federal Public Defender		
	California Bar No. 166073		
8	Brad_Levenson@fd.org		
	411 E. Bonneville Ave., Ste. 250		
9	Las Vegas, NV 89101		
	(702) 388-6577		
10	(702) 388-5819 (fax)		
11	Attorneys for Petitioner		
12			
	UNITED STATES DISTRICT COURT		
13	DISTRICT	OF NEVADA	
1 4	C M'II:	1	
14	Cary Williams,	C N- 0.00 000FC ADC VCE	
1 5	Dotition on	Case No. 2:98-cv-00056-APG-VCF	
15	Petitioner,	Stimulation and Dranged	
16		Stipulation and Proposed	
10	V.	Scheduling Order Regarding: (1) Deposition Testimony of Dr.	
17	William Gittere, et al.,	Erin Bigler; and (2) Remaining	
11	William Gittere, et at.,	Deadlines	
18	Respondents.	Deaumes	
	itespondents.	DEATH PENALTY CASE	
19			
10			
20		_	
_			
21			
22			
23			

Last fall, the parties filed a Stipulation and Proposed Scheduling Order to Continue Proceedings 90 days. This Court accepted the stipulation, adopted the proposed deadlines, and scheduled the evidentiary hearing to begin on May 16, 2022.

#### IT IS HEREBY STIPULATE AND AGREED that:

- 1. In anticipation of the hearing, the parties have been conferring regarding two issues. First, one of Mr. Williams's experts, Dr. Erin Bigler, is very ill. The parties have conferred regarding deposing Dr. Bigler and presenting his deposition in court under Fed. R. Civ. P. 32(a). The parties agree that Dr. Bigler "cannot attend or testify [at the hearing] because of . . . illness . . . ." Fed. R. Civ. P. 32(a)(4). Thus, the parties have agreed to depose Dr. Bigler on March 23, 2022. This deposition will occur virtually starting at 10 a.m. The parties agree this deposition will be admissible, subject to the conditions imposed under Fed. R. Civ. P. 32(a). Williams will the bear the costs, including the audiovisual recording costs.
- 2. Second the parties have conferred regarding the remaining deadlines in this case. Counsel for Mr. Williams requires an additional two weeks to complete his Prehearing Brief. Accordingly, counsel have come to a proposed agreement regarding the remaining deadlines previously set by this Court. The schedule proposed below does not change the hearing date, or the date to contact chambers for marking exhibits: Williams's prehearing brief is moved two weeks from its

<sup>&</sup>lt;sup>1</sup> ECF No. 291.

<sup>&</sup>lt;sup>2</sup> ECF No. 292.

///

///

///

current deadline; all other deadlines are moved three weeks from their current deadlines.

- 3. The parties ask this Court to modify its previous order and adopt the following schedule for this evidentiary hearing:
  - (a) The evidentiary hearing will take place starting on May 16, 2022.
  - (b) Mr. Williams's pre-hearing brief will be due on February 28, 2022.
    The State's responsive pre-hearing brief will be due on March 21, 2022. Mr. Williams's reply will be due on March 28, 2022.
  - (c) The witness lists and exhibits list will be due on March 31, 2022.
  - (d) Pre-hearing motions will be due on April 7, 2022. Any oppositions or replies will be governed by LR 7-2(b).
  - (e) No later than five days before the hearing begins, the parties will mark and submit exhibits.

1	(f) The parties will continue to file status reports at three-month	
2	intervals, consistent with the January 14, 2021 order.	
3	Dated this 8th day of February, 2022.	
4	Rene L. Valladares Federal Public Defender	Aaron Ford
5		Attorney General of Nevada
6	/s/ Randolph M. Fiedler	/s/ Jessica Perlick
7	Randolph M. Fiedler Assistant Federal Public Defender	Jessica Perlick Senior Deputy Attorney General
8		
9	/s/ Heather Fraley Heather Fraley	<u>/s/ Charles L. Finlayson</u> Charles L. Finlayson
10	Assistant Federal Public Defender	Senior Deputy Attorney General
11	/s/ Brad Levenson	
12	Brad Levenson Assistant Federal Public Defender	
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		

#### ORDER

The parties have submitted a stipulation requesting this Court modify the scheduling order and accept the parties' position on deposing Dr. Bigler. Based on this stipulation and for good cause shown, it is hereby ordered that the following schedule will govern the evidentiary hearing.

# The Evidentiary Hearing

The evidentiary hearing will commence on May 16, 2022, at 9:00 a.m., in Las Vegas courtroom 6C.

## The Deposition of Dr. Erin Bigler

The deposition of Dr. Erin Bigler will occur on **March 23, 2022**, at 10:00 a.m., virtually. Dr. Bigler cannot attend the hearing in this case because of illness. This deposition will be admissible during the hearing, subject to the conditions of Fed. R. Civ. P. 32(a).

# Pre-Hearing Briefs

Williams will submit a pre-hearing brief by **February 28, 2022**. The respondents will file a responsive pre-hearing brief by **March 21, 2022**. Williams may file a reply to the respondents' brief by **March 28, 2022**.

# Witness List and Exhibit List

The parties will file witness lists and exhibit lists no later than March 31, 2022. The parties will file a joint exhibit list, identifying the exhibits they agree are admissible. The parties will file separate lists of exhibits that the parties do not agree are admissible.

## **Pre-Hearing Motions**

The parties will file any pre-hearing motions by **April 7, 2022**. The schedule for the briefing of such motions will be as set forth in Local Rule 7-2(b).

## Marking and Submission of Exhibits

The parties are to contact Melissa Johansen, at melissa\_johansen@nvd.uscourts.gov, no less than five calendar days before the evidentiary hearing to arrange to mark and submit exhibits.

## Status Reports

The parties will continue to file, at three-month intervals and continuing until the hearing, joint status reports regarding the feasibility of adhering to this scheduling order in light of the COVID-19 pandemic, consistent with this Court's January 14, 2022 order. *See* ECF No. 288 at 2.

Dated this 9th day of February , 2022

ANDREW P. GORDON UNITED STATES DISTRICT JUDGE